

AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
DEL WEBB'S COVENTRY HOMES CONSTRUCTION CO.

THIS AGREEMENT is entered into 13 July, 1999, pursuant to Arizona Revised Statutes, Sections 28-408 as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and, DEL WEBB'S COVENTRY HOMES CONSTRUCTION CO., an Arizona corporation ("Del Webb").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-408 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State

2. Del Webb has by resolutions, copies of which are attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of Del Webb.

3. Del Webb's affiliate, Anthem Arizona LLC, an Arizona limited liability company ("Anthem"), is proceeding to develop Anthem Phoenix Master Planned Community (the "Anthem Community") located adjacent to Interstate 17 (I-17) and the Anthem Traffic Interchange ("TI"). The traffic generated by the community will increase the need for an additional interchange access to I-17 by the year 2002.

4. Del Webb desires to construct a new traffic interchange at the Deadman Wash Crossing of I-17 (proposed to be called the Daisy Mountain Interchange) and has requested the State to include this interchange, herein referred to as the "Project", in the Arizona Department of Transportation's (ADOT's) 5-Year Construction Program in fiscal year 2002, as a developer-funded project. Therefore, Del Webb has agreed to design and construct the Project at I-17, Milepost 227.0.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. Del Webb will:

a. Retain and contract with competent professionals to prepare to State and federal standards design concept studies, traffic studies, a federal change of access report, construction plans, specifications, material reports, drainage reports, structural reports, right of way plans, construction cost estimates and any other documents required for construction bidding and construction of the Project (collectively the "Plans") and the approved Scope of Work, shown on Exhibit "A", attached hereto and made a part hereof. Without limiting the foregoing, the Plans will include the documents listed on Exhibit "B", attached hereto and made a part hereof.

b. Provide the State with copies of the Plans for review at the initial DCR, final DCR, 30%, 60%, 90% and 100% levels of completion.

c. After the Final Plans (defined in II 3 a. below) have been approved by Del Webb and the State, obtain from its engineer, an estimate (the "Pre-Bid Estimate") of the cost to construct the Project in accordance with the Final Plans and will submit same to the State.

d. Upon execution of this agreement and prior to starting the Environmental Assessment work, deposit, with the State in the amount of \$106,959 00, the estimated total costs and expenses reasonably incurred in connection with the Environmental Assessment, including, but not limited to all amounts due under the Scope of Work and original contract price shown in Exhibit "C", attached hereto and made a part hereof, and all costs incurred due to change orders. If additional funds are needed, Del Webb will be notified by the State of the amount necessary to complete the Environmental Assessment work herein. Upon completion of and final payment for the Environmental Assessment, any funds remaining in said account will be promptly refunded to Del Webb.

e. Pay all actual out of pocket costs and expenses reasonably incurred in connection with the construction of the Project, including all amounts due under the Construction Contract awarded by Del Webb (the "Contract Price"), all cost increases due to change orders (which will be subject to approval as provided herein), construction management fees, the Environmental Assessment, a fee to the ADOT to provide construction management oversight, (the "ADOT Construction Management Fee"), and an ADOT Staff fee for the preparation and review of planning and design documents (the "ADOT Review Fee"). The ADOT Review Fee will be paid quarterly within 15 days of receipt of each quarterly accounting from the State. The ADOT Construction Management Fee shall be calculated based on the time devoted to the Project by ADOT consultants and employees (calculated in the case of ADOT employees based on a pro rata allocation of the employee's salary and employee related expenses) and actual out-of-pocket expenses, but in no event will the ADOT Construction Management Fee exceed Four percent (4%) of the Contract Price. The ADOT Construction Management Fee will be paid following acceptance of the Project by the State and within fifteen (15) days after receipt by Del Webb of an accounting from the State setting forth the amount owed and the basis for determining such amount. Del Webb shall be permitted to audit any books and records of the State related to calculations of the ADOT Fee

f. As security for Del Webb's agreement to pay the costs of constructing the Project, Del Webb will provide the State with a surety bond issued by a company approved by the State in an amount equal to 106% of the Contract Price. At Del Webb's request, the surety bond shall be partially exonerated on a quarterly basis, so that the remaining bond equals 106% of the portion of the Project remaining to be completed, including construction change orders; except the last 10% of the contract price shall not be exonerated until the Contractor has been fully paid and all disputes resolved, and upon Project certification and acceptance by the State.

g. Be responsible for any claims by the Contractor for extra compensation in excess of the Contract Price.

h. Administer the Project and cause the Project to be completed in accordance with the Final Plans, the Construction Contract, the State policies and procedures itemized in Construction Administration Scope of Work, attached hereto as Exhibit "D", attached hereto and made a part hereof, and applicable Laws.

i. Notify the State in writing of any proposed contract modifications, change orders, letter agreements or force account work necessary to accomplish the Project, all of which shall be subject to the State's approval, as provided below.

j. Require the Contractor to complete the Project within one (1) year after the Construction Contract is awarded, subject only to force majeure events (as provided in the Construction Contract) and delays due to change orders approved by Del Webb and the State.

k. Procure and administer a construction contract with an ADOT pre-qualified construction contractor, pursuant to the procedures outlined in Arizona Revised Statutes Section 28-6923, as amended by Laws 1999, Chapter 136 (effective August 6, 1999) and as may be amended from time to time after such law takes effect.

2. The State:

a. Upon execution of this agreement and prior to starting the Environmental Assessment work will assist Del Webb in establishing an account with the State, in the amount of \$106,959.00 for total costs and expenses reasonably incurred in connection with the Environmental Assessment, including but not limited to, all amounts due under the Scope of Work and original contract price shown in Exhibit "C", and all cost incurred due to change orders. If additional funds are needed, Del Webb will be notified by the State of the amount necessary to complete the Environmental Assessment work herein. Upon completion of and final payment for the Environmental Assessment, any funds remaining in said account will be promptly refunded to Del Webb.

b. Will be responsible for contracting provisions for the Environmental Assessment in accordance with the Scope of Work and estimated cost shown in Exhibit "C".

c. Will review and approve and/or provide comments to the Plans at the initial DCR, final DCR, 30%, 60% 90% and 100% levels and provide Del Webb with its review comments within thirty (30) days of receipt of said Plans. If the State objects to the Plans within such 30-day period, Del Webb and the State, at Del Webb's request, shall meet and confer to resolve any objections, and following any such meeting, Del Webb shall include the agreed changes in the following plan submittal. Any review comments made to the revised Plans shall be made within 30 days of submittal and shall follow the procedure outlined above.

d. Within ten (10) days after submittal of the Final Plans, will approve the Project for construction or make objections as provided above in Paragraph II 2 c.

e. Will inspect Del Webb's administration of the Project on a regular basis to ensure the Project is completed in accordance with the Final Plans, the Construction Contract, State policies and procedures and applicable Laws.

f. Will review and approve in writing any proposed contract modifications, change orders, letter agreements or force account work necessary to accomplish the Project. The State will review such items within ten (10) business days after receipt of a written request from Del Webb and if it objects to any such items, shall specify in writing the nature of its objection within such 10-day period.

g. Upon completion of the Project, the State will maintain the Project.

3. Del Webb and State agree:

a. Once the Plans at the 100% level of completion have been approved by the State, such Plans will be referred to as the "Final Plans". The Final Plans will not be amended, revised or modified without Del Webb's and the State's prior written approval, which approval will follow the procedure described in Section 2 f above.

b. All bid documents, all construction contracts (collectively, the "Construction Contract") and amendments, change orders and/or any other modifications thereto (all collectively, the "Construction Documents") will be approved jointly by Del Webb and the State in their reasonable discretion prior to commencement of the bid or contract modification process.

c. That prior to advertising the Project for bid, the State and Anthem will agree on the legal description of the real property to be donated in fee title by Anthem to the State (the "Right of Way Property"), and Del Webb will cause Anthem to execute an ADOT standard Warranty Deed ("Deed") for the Right of Way Property, attached hereto and made a part hereof as Exhibit E. Del Webb will cause Anthem to deliver the Deed to the State prior to ADOT providing right of way clearance for the Project bid advertisement. After the Project has been completed and accepted by the ADOT District Office, the State will recommend to the State Transportation Board that it adopt a Resolution of Establishment, establishing the Project as a State highway. After such a resolution has been adopted, the State will accept the Deed and record the Deed and Resolution consecutively. If for any reason the Daisy Mountain TI is not constructed following delivery of the Deed, the State will return the Deed to Anthem.

d. Del Webb will provide the State with the construction schedule for the Project, and the State will perform all tests and take all actions for which it is responsible so as not to delay the Project.

e. To jointly resolve any disputes arising under the administration of the Construction Contract. Del Webb will notify the State in writing of any disputes.

f. Upon reasonable notice to Del Webb, the State will have the right to audit all books and records of Del Webb, relating to the Project, and Del Webb will make all such books and records available for copying by the State, at Del Webb's expense.

g. At any time prior to awarding the Construction Contract, Del Webb may take the following actions upon written notice to the State:

(1) Del Webb may suspend work on the Project by written notice to the State, in which event this Agreement shall continue in effect, but any time periods for the performance of actions required under this Agreement will be suspended for 12 months, or until Del Webb notifies the State of its intent to resume the Project, whichever is earlier.

(2) Del Webb may terminate this Agreement for any reason whatsoever prior to commencement of construction, but Del Webb will be responsible for all costs reasonably incurred by the State up to the time of termination, unless the reason for Del Webb's termination is due to the State's failure to comply with its obligations hereunder.

h. That nothing herein will be construed to impose an obligation on the State to construct any further interchanges in the immediate area.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall remain in force and effect until completion of said Project, except that any provisions herein for maintenance, shall be perpetual.

2. This Agreement shall become effective upon both parties signing this Agreement.

3. This Agreement may be canceled in accordance with A.R.S. Section 38-511.

4. The provisions of A.R.S. Section 35-214 are applicable to this Agreement.

5. In the event of any controversy between Del Webb and the State which may arise out of this Agreement, regardless of amount or subject, the parties hereto agree to abide by binding-arbitration pursuant to in A.R.S. Section 12-1518.

6. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

If to the State:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

If to Del Webb:

Del Webb's Coventry Homes Construction Co.
Attn.: Nick Taratsas, Vice President
14908 N. Scottsdale Road
Scottsdale, AZ 85254

With a copy to:

Del Webb Corporation
Attn.: Phil Darrow
6001 N. 24th Street
Phoenix, AZ 85016

7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that such party is authorized under the laws of this state to enter into this Agreement.

8. If either party fails to perform its obligations hereunder the non-defaulting party shall notify the defaulting party in writing and the defaulting party shall have five (5) days (or if such default cannot be cured within five (5) days, a reasonable period of time not to exceed thirty (30) days) to cure its default.

9. In the event of any lawsuit between Del Webb and the State arising out of the Project or this Agreement in which a judgment or award has been obtained, the non-prevailing party shall pay to the prevailing party all costs and reasonable attorneys' fees awarded by the court.

10. This Agreement represents the entire agreement of the parties relating to the Project and supersedes and replaces all prior agreements, whether written or oral. This Agreement shall not be amended except by written agreement executed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

**DEL WEBB'S COVENTRY HOMES
CONSTRUCTION CO., an Arizona Corporation**

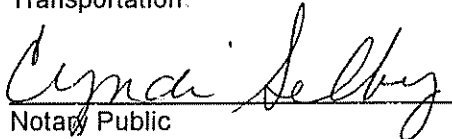
**STATE OF ARIZONA
Department of Transportation**

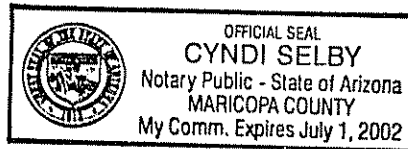
By 
NICK TARATSAS
Vice President, Land Development

By 
VICTOR M. MENDEZ, P.E.
Deputy State Engineer

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 12th day of July, 1999, by VICTOR M. MENDEZ, Deputy State Engineer, on behalf of the State of Arizona, Department of Transportation.


Notary Public

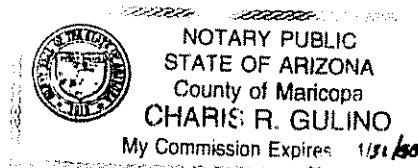


My Commission Expires:
7/1/02

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 9th day of July, 1999, by Nick Taratsas, the Vice President, Land Development of DEL WEBB'S COVENTRY HOMES CONSTRUCTION CO., an Arizona corporation, on behalf of the corporation.


Notary Public

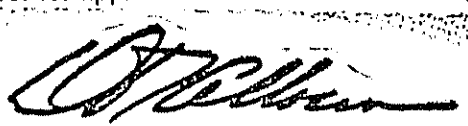


My Commission Expires:
1/31/00

RESOLUTION

BE IT RESOLVED on this 24th day of March 1999, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with Del Webb's Coventry Homes Construction Co., for the purpose of defining responsibilities for the funding, design, construction and maintenance of a new traffic interchange at I-17 and Daisy Mountain Drive

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Deputy State Engineer for approval and execution,

A handwritten signature in black ink, appearing to read 'D. Allocco', is written over a horizontal line.

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group

for MARY E. PETERS, Director

SECRETARY'S CERTIFICATE

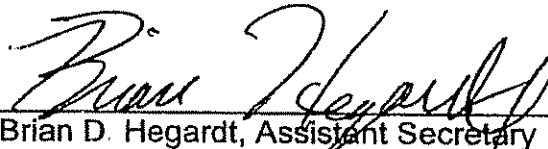
I, Brian D. Hegardt, do hereby certify that I am the duly elected, qualified and acting Assistant Secretary of Del Webb's Coventry Homes Construction Co., an Arizona corporation, and as such Assistant Secretary have access to all the original records and books of said Corporation and that the following is a true and correct copy of a unanimous written consent adopted by the Board of Directors effective July 12, 1999, and that such resolution has not been modified or rescinded and remains in full force and effect:

RESOLVED, that Thomas E. Lucas, Vice President; or Benjamin S. Redman, Vice President; or Nickolas A. Taratsas, Vice President; as authorized agents of this Corporation, are hereby authorized and empowered for and on behalf and in the name of the Corporation to prepare, execute and deliver any and all agreements, instruments, documents and applications by and between the Arizona Depart of Transportation (the "State") and Del Webb's Coventry Homes Construction Co. which are necessary or which the authorized agent determines to be advisable or expedient in connection with the design and construction of the Daisy Mountain Traffic Interchange (the "Project"); and

RESOLVED FURTHER, that in connection with the scope of work under the Agreement, the authorized agents of this Corporation are authorized and directed to prepare, execute and deliver any and all agreements, certificates, instruments, documents, permits, applications or forms, including amendments and modifications thereto, which are necessary or which the authorized agents determine to be advisable including, without limitation, design studies, construction plans, specifications material reports, drainage reports, structural reports, environmental clearance, right of way plans, construction cost estimates and any other documents required for land development, construction bidding and construction of the Project; and

RESOLVED FURTHER, that any and all actions by the foregoing individuals taken prior to the date of this resolution are hereby ratified and approved.

IN WITNESS WHEREOF, I have hereunto set my hand as the Assistant Secretary of the Corporation on July 12, 1999


Brian D. Hegardt, Assistant Secretary

Agreement JPA 99-44

Approval of

Del Webb's Coventry Homes Construction co.

Attorney

I have reviewed the attached proposed agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODEL TRANSPORTATION DIVISION, and the Del Webb's Coventry homes construction co., and declare this agreement to be in proper form and within the powers and authority granted to Del Webb's Coventry Homes Construction Co., under the laws of the State of Arizona.

Dated this 9th day of July, 1999.


Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

JANET NAPOLITANO
ATTORNEY GENERAL

TRN Main: (602) 542-1680

Direct: (602) 542-8837

Fax: (602) 542-3646

MAIN PHONE : (602) 542-5025

FACSIMILE : (602) 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR99-1287TRN, has been reviewed by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED July 13, 1999.

JANET NAPOLITANO
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/77524

Enc.